IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **CWP No.20320 of 2004**

DATE OF DECISION: October 19, 2006

JASWANT SINGH ...PETITIONER

VERSUS

DIRECTOR RURAL DEVELOPMENT & PANCHAYATS ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.
HON'BLE MRS. JUSTICE NIRMAL YADAV.

PRESENT: MR. S.S. SALAR, ADVOCATE FOR THE PETITIONER.
MR. C.M. MUNJAL, SR.ADDL.A.G., PUNJAB.
MR. JITENDER SINGH, ADVOCATE FOR RESPONDENT NO.2.

ASHUTOSH MOHUNTA, J.

The petitioner has prayed for quashing of order (Annexure P-5) passed by the Director, Rural Development and Panchayats dated 3.11.2004, by which the order of the Collector has been set aside.

Briefly, the facts of the case are that the Gram Panchayat of village Mohamedpur Rasaldarwala, District Sangrur filed an application under Section 7 of the Punjab Village Common Lands (Regulation) Act for eviction of the petitioner from the land comprised in Khasra No.435 measuring 0 kanals 10 marlas. It was averred that Jaswant Singh (present petitioner) has illegally occupied the suit land and has raised a boundary wall and has constructed a shed.

Reply was filed by Jaswant Singh in which he submitted that earlier the Panchayats of Village Thalesh and Mohamedpur Rasaldarwala

were one and the same. A request was made in 1997 by the residents of village Mohmedpur Rasaldarwala that the land bearing in Khasra No.139 was too close to the abadi of village and therefore, the land belonging to Jaswant Singh be exchanged for this land. It was stated that the land belonging to the Panchayat has a thorough passage on both the sides and is being used by the public and therefore, the women folk cannot use the land for latrines, etc. and thus, the land belonging to the Gram Panchayat be exchanged with the land belonging to Jaswant Singh. The Gram Panchayat also passed a resolution in this regard. In pursuance to the Resolution, an equivalent area belonging to the Gram Panchayat was sought to be exchanged with that of Jaswant Singh. In the petition filed under Section 7 (2) of the Punjab Village Commons Lands (Regulation) Act, the District Development and Panchayat Officer, Sangrur directed the Gram Panchayat of Mohamedpur Rasaldarwala to get the valuation of the land done and thereafter submit the papers to the Government for permission to exchange the land. This order was challenged by the Gram Panchayat before the Commissioner on the ground that the land belonging to the Gram Panchayat which is being given to Jaswant Singh-petitioner in exchange is much more valuable than the land of Jaswant Singh and a report was sought by the Commissioner. The Revenue Authorities opined that value of the land belonging to the Panchayat was Rs.1 lac, as compared to Rs.50,000/- which is the valuation of land belonging to Jaswant Singh. Thus, the Commissioner vide the impugned order dated 3.11.2004, set aside the order passed by the District Development & Panchayat Officer, Sangrur and consequently, the exchange was disallowed.

Counsel for the petitioner has argued that the land was sought

to be exchanged on the passing of a resolution by the Gram Panchayat itself, therefore, the necessary permission ought to have been granted.

We are unable to accept this argument of counsel for the petitioner. A perusal of the aforementioned facts show that the land belonging to the Gram Panchayat is much more valuable than that of the petitioner, therefore, such an unequitable exchange cannot be allowed. Resultantly, we upheld the order passed by the Commissioner.

However, the fact remains that the land was being exchanged for providing open space to the women folk of the village to answer their calls of nature. In this view of the matter, we direct the Gram Panchayat of village Mohamedpur Rasaldarwala to construct adequate number of latrines exclusively for the women folk of the village so that they do not have to use the open fields for the morning calls. The construction work be undertaken by the Gram Panchayat immediately and the Collector (District Development & Panchayat Officer, Sangrur) is directed to ensure that the latrines are constructed within a period of 3 months from the date of receipt of certified copy of this order. In case the Gram Panchayat does not have adequate funds then it shall be the duty of the Collector to sanction and provide them the funds for the construction of latrines in village Mohamedpur Rasaldarwala.

Writ petition is disposed of.

(ASHUTOSH MOHUNTA)
JUDGE

October 19, 2006
Gulati

(NIRMAL YADAV)
JUDGE